S.B.Civil Revision Petition No.123/2007

Chatar Lal.

vs.

Dr. Ved Prakash and others.

Date : 7.5.2007

HON'BLE MR. PRAKASH TATIA, J.

Mr.Rajesh Panwar, for the petitioners.

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Heard learned counsel for the petitioners/ defendants.

The petitioners are aggrieved against the order dated 23.4.2007 by which the trial court dismissed the petitioners' application filed under Order 7 Rule 11 CPC.

The petitioners' contention is that the alleged land, which is claimed to be land of way, is not land of way but in fact, it is a part of agriculture land of the petitioners and there exists no way on the spot, therefore, the plaintiffs' suit is barred under Section 207 of the Rajasthan Tenancy Act as has been filed with respect of agriculture land.

I considered the submissions of learned counsel for the petitioners and perused the impugned order.

So far as whether there exists a way or not is concerned, this issue cannot be decided in the application under Order 7 Rule 11 CPC nor a defence of the defendant can be looked into under Order 7 Rule 11 CPC. The plaintiffs' claim in the suit alone can be looked into and the plaintiffs submitted that their exists road and the defendants want to obstruct the road. In view of the above, the trial court rightly dismissed the application of the petitioner under Order 7 Rule 11 CPC. I do not find any illegality in the impugned order so as to warrant interference under Section 115 CPC.

Consequently, this revision petition, having no merits, is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya